

No. 2278

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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THE UNITED STATES OF AMERICA,  
Appellant,

vs.

JIM HONG,

Appellee.

In the Matter of the Application of JIM HONG for  
a Writ of Habeas Corpus.

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Transcript of Record.

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Upon Appeal from the United States District Court  
for the District of Arizona.

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FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[1\*] *In the District Court of the United States for  
the District of Arizona.*

In the Matter of the Application of JIM HONG for  
a Writ of Habeas Corpus.

**Petition for Writ of Habeas Corpus.**

To the Honorable Judge of the District Court of the  
United States for the District of Arizona.

The petition of Jim Hong respectfully shows to  
this Honorable Court:

FIRST: Your petitioner alleges that he is a person  
of Chinese descent, lawfully within the United States  
under and by virtue of a certain certificate numbered  
137,804, issued to your petitioner by the proper gov-  
ernmental authorities in or about the year 1892; and  
that your petitioner has since the said year at all  
times been lawfully within the United States and has  
never during said time departed therefrom.

SECOND: Your petitioner alleges that he is forty-  
nine (49) years of age; that he was born in Canton,  
China, and first came to the United States in or about  
the year 1874, at which time he came into this coun-  
try through the port of San Francisco, California;  
that during the period of his minority, he lived the  
greater portion of the time with his father, a person  
also of Chinese descent, who was then lawfully within  
the United States at Sacramento, in the State of Cali-  
fornia; that the father of your petitioner owned a  
butcher-shop at Sacramento, and was engaged as a  
[2] merchant in said place, and your petitioner  
during a period of his minority and until about the

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\*Page number appearing at top of page of original certified Record.

age of sixteen (16) years went to school in Sacramento and secured some slight education; that when your petitioner was about nineteen (19) years of age he went to El Paso, in the State of Texas, and worked there in a hotel as a cook.

THIRD: Your petitioner further alleges that in or about the year 1887 or 1888 he became a member of a partnership in the city of El Paso, under the name of Quon Yuen Sang; and that from or about the year 1887 or 1888 to the year 1889 your petitioner was engaged in business in the city of El Paso, Texas, with his said firm as Chinese merchants and dealers in Chinese drygoods at said time and place; that during all of the said time in which your petitioner was a member of the said firm he was engaged in buying and selling merchandise at a fixed place of business in said city, and during said time your petitioner was not engaged in the performance of any manual labor except such as was necessary in the conduct of his said business as such merchant; and that while your petitioner's name did not appear in the name and title of the said firm, it did appear in the books of the said partnership.

FOURTH: Your petitioner further alleges that about the year 1889 your petitioner went to China and departed from this country through the port of San Francisco, California; and, after a sojourn in China of about eight (8) or nine (9) [3] months, he returned to this country and was admitted into this country again through the port of San Francisco in or about the year 1890; that at the time of your petitioner's admission to this country in 1890 all of the



formalities then existing for the admission of Chinese persons to this country were duly and fully complied with by your petitioner and that his said entry into this country was open and not surreptitious, nor did he at said time or any time conceal any facts whatever concerning himself from the authorities of the United States having in charge the admission to this country of persons of Chinese descent.

FIFTH: Your petitioner further alleges that in or about the year 1892 your petitioner was engaged in business as the owner and keeper of a restaurant at Alpine, in the State of Texas; and that at or about said time an inspector of the United States Government came to your said petitioner and delivered to him a certificate, the said certificate being No. 137,804 as aforesaid, which said certificate authorized and empowered your petitioner to be and remain in the United States as a merchant, in accordance with the provisions of said certificate, to which certificate reference is hereby made as though the same were set out at length and the same made a part hereof; and your petitioner further alleges that he continued in his said business as [4] the owner and keeper of said restaurant at Alpine, Texas, until in or about the year 1894, at which time your petitioner went to the city of Houston, Texas, where he also owned and maintained a restaurant, and that at or about the same time he owned and maintained a restaurant in the city of Galveston, Texas, known as the "Bon Ton Restaurant," and that the restaurant maintained by him in Houston, Texas, was upon Travis Street in said city.

SIXTH: Your petitioner alleges that thereafter he went to Beaumont, Texas, at or about the time of the development of the Beaumont oil fields, and shortly thereafter established himself in business as the owner and keeper of a restaurant at a place not far from Beaumont known as Sour Lake, Texas; at which place your petitioner alleges he built a two-story house and engaged in the restaurant and lodging-house business in said last place named.

SEVENTH: Your petitioner further alleges that he remained in said business in Sour Lake, Texas, for a period of eight or nine months until a fire occurred at Sour Lake, Texas, which destroyed the greater portion or the whole of said town, including the dwelling and place of business of your said petitioner; and that in said fire your said petitioner lost many of his papers and much property of the value of several thousand dollars; and that in said fire much evidence, which would serve to identify your said petitioner and corroborate [5] the truth of the statements herein contained, was also destroyed; that because of the misfortune which overtook your said petitioner in the fire last referred to, and because of the destruction of his property, and the great loss consequent thereon, as aforesaid, your petitioner returned to Beaumont, Texas, and thereafter returned to San Francisco and Sacramento, California, in which places he remained until about the year 1910, at which time he came to the city of Phoenix, in the Territory of Arizona. Since the year 1910, your petitioner alleges that he has continuously been in the city of Phoenix, and that at no time since the said

year of 1910 until the present time has your petitioner departed therefrom; and that, due to his losses and misfortunes as aforesaid, your petitioner has been obliged to engage in the occupation of housekeeper in the household of the Right Reverend Julius Atwood, Bishop of Arizona, and that he has been continuously in said employ since some time in the year 1911; but your petitioner alleges that said occupation is only temporary until your petitioner is able to earn and save sufficient funds to enable him to again engage in the business of owning and keeping an independent business of his own, and your petitioner declares it to be his intention to resume his occupation as a merchant.

EIGHTH: Your petitioner further alleges that at all times since he attained his majority he has been continuously domiciled within the United States, and that his return to China [6] as aforesaid was only a temporary departure from the United States, and that at all times your said petitioner has regarded the United States of America as his home and only place of domicile; that on or about November 21st, 1912, your petitioner was arrested in the city of Phoenix, Arizona, under and by virtue of a warrant issued by the Honorable C. W. Johnstone, United States Commissioner, a copy of which is hereto annexed and made a part hereof and marked Exhibit "1"; and that said warrant was issued upon the complaint of O. T. Richey, Esquire, a duly qualified and acting Assistant United States Attorney for the District of Arizona, a copy of which said complaint is hereto annexed and made a part hereof and marked Ex-

hibit "2"; and that to the best of your petitioner's knowledge, information and belief the said warrant of arrest is the sole authority for your petitioner's detention, and that said complaint charges your said petitioner with being a person of Chinese descent unlawfully within the United States.

NINTH: But your petitioner alleges that the said complaint and the said warrant are fatally defective in that it appears from the face thereof that neither said complaint nor said warrant state any facts sufficient to constitute the offense of being unlawfully within the United States; nor are any facts stated from which it can appear that your petitioner is a person who is by reason or any act or omission a person unlawfully within the United States.

[7] TENTH: Your petitioner further alleges that he is now in the custody of the United States Marshal, under and by virtue of the said warrant of arrest, and that he is held to await an order of deportation to be made under the provisions of the Chinese Exclusion Act, having reference to the deportation of Chinese persons unlawfully within the United States.

ELEVENTH: But your petitioner alleges that he has been unlawfully deprived by the officers of the United States Government, the names of whom are unknown to your petitioner, of the certificate heretofore described and referred to herein, which said certificate is the best evidence your petitioner can offer as to his right to be and remain in the United States; and your petitioner further alleges that the said inspector or officer of the Government required

your petitioner to produce his said certificate, and when your petitioner produced it, the said officer, notwithstanding the protest of your petitioner, appropriated the same and has since withheld its possession from your petitioner, which retention of said certificate has resulted in serious embarrassment to your petitioner in stating his case to his counsel, and that the said officer had no right, power or authority to deprive your petitioner of his said certificate, and said acts on the part of the said officer deprived your petitioner of his rights in and to the equal protection of the laws of the said country, and violated his right to be [8] exempt from unlawful searches and seizure.

TWELFTH: And your petitioner further alleges that, in being deprived of said certificate, he has been subjected to unlawful search and seizure of his property in violation of the provisions of the Constitution of the United States, in such cases made and provided, and that he has been denied the equal protection of the laws guaranteed to citizens of the United States and to others lawfully domiciled therein by the provisions of the said Constitution of the United States; and further, your petitioner respectfully alleges that he is now restrained and deprived of his liberty without due process of law, in violation of the "due process" clause of the said Constitution of the United States.

THIRTEENTH: Your petitioner further alleges that he still has and maintains his status in this country under and by virtue of his said certificate as a merchant, and that, in consequence thereof, neither

this Court nor the Commissioner before whom there is now pending the application of the United States to deport and remove your petitioner from the United States, have jurisdiction in the premises.

WHEREFORE, your petitioner respectfully prays that a Writ of Habeas Corpus issue out of and under the seal of this Court, directed to the Marshal of the United States for the District of Arizona, or to such other persons as may now have him in custody, to produce his body before this Court [9] to the end that he may be discharged from such unlawful restraint and custody, in accordance with the law in such cases made and provided.

JIM HONG.

State of Arizona,  
County of Maricopa,—ss.

Jim Hong, being duly sworn, deposes and says that he is the petitioner named in the foregoing petition subscribed by him; that he has read the same, and knows the contents thereof, and the said statements made are true, as he verily believes.

JIM HONG.

Sworn to by the said Jim Hong before me and by me subscribed on this 27th day of February, 1913.

[Seal]

ALLAN B. JAYNES,  
Clerk U. S. District Court.

**Exhibit 1—Warrant of Arrest.**

United States of America,  
District of Arizona,—ss.

To the United States Marshal:

Complaint on oath having been this day made before me, a United States Commissioner for the Dis-

trict of the State of Arizona, that the offense of being a Chinese person unlawfully [10] within the United States has been committed and accusing Jim Hong thereof,

YOU ARE, THEREFORE, commanded by the President of the United States forthwith to arrest the above-named Jim Hong and bring him before me forthwith at my office, in the District of Arizona, or in case of my absence, or inability to act, before the nearest and most accessible Commissioner within this District.

Given under my hand this 20th day of November, A. D. 1912.

[Seal]

C. W. JOHNSTONE,  
United States Commissioner.

[Endorsement]: I hereby certify that on the 21st day of November, 1912, at Phoenix, Arizona, I served the within warrant upon the within named Jim Hong and now have his body in custody.

C. A. OVERLOCK,  
United States Marshal.  
By Bernard Anderson,  
Deputy.

Dated November 21, 1912.

**Exhibit 2—Complaint Against a Chinese Person.**

[11] UNITED STATES OF AMERICA

vs.

JIM HONG.

District of Arizona,

County of Maricopa,—ss.

Before C. W. JOHNSTONE, United States Commissioner for said District.

**[Affidavit of O. T. Richey, Assistant U. S. Attorney.]**

O. T. Richey, being duly sworn, on behalf of the United States, deposes and says that he is a duly appointed, qualified and acting Assistant United States Attorney, that Jim Hong is a Chinese person not lawfully entitled to be or to remain in the United States, and that the said Jim Hong is now in the District of Arizona, and within the County of Maricopa thereof; wherefore affiant prays that a warrant be issued for the arrest of the said Jim Hong that he may be dealt with in accordance with law.

O. T. RICHEY.

Subscribed and sworn to before me this 20th day of November, 1912.

[Seal]

C. W. JOHNSTONE,  
United States Commissioner for the District of Arizona.



[Endorsement]:

State of Arizona,  
Judicial District.

[12] I certify that the within complaint is a full, true and correct form of a complaint on file in my office.

[Seal] C. W. JOHNSTONE,  
United States Commissioner for the Judicial District of the State of Arizona.

[Endorsements]: C-418. (1.) District Court of the United States for the District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. (Original.) Petition for Writ of Habeas Corpus. Filed Feb. 27, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. Edward Kent, William M. Seabury, Fleming Building, Phoenix, Arizona.

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**Writ of Habeas Corpus.**

United States of America,  
District of Arizona,—ss.

To the Marshal of the United States for the District of Arizona at Phoenix, Arizona.

We command you that the body of Jim Hong, in your custody detained as it is said, together with the day and cause of caption and detention, you safely have before the Honorable Richard E. Sloan, Judge of the District Court of the United States for the District of Arizona, at the Federal Building in the city of Phoenix on the 3d day of March, 1913, at the opening of court on said day at 9:30 o'clock in the morning, to do and receive all and singular those

things which the said [13] District Judge shall then and there consider of him in this behalf, and have you then and there this writ.

WITNESS, the Honorable RICHARD E. SLOAN, Judge of the District Court of the United States, this 27th day of February, 1913, and in the year of the Independence of the United States, 137.

[Seal]

RICHARD E. SLOAN,

Judge.

[Endorsements]: Marshal's Docket No. 2597. District Court of the United States for the District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. (Original.) Writ of Habeas Corpus. Filed March 3, 1913. Allan B. Jaynes, Clerk. Edward Kent, William M. Seabury, Fleming Building, Phoenix, Arizona.

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**Order Admitting Defendant to Bail, etc.**

BE IT REMEMBERED, that heretofore and upon, to wit; the 27th day of February, in the year of our Lord one thousand nine hundred and thirteen, the same being one of the regular juridical days of the October, 1912, Term of said Court, the following order, *inter alia*, was had and entered of record in said Court in said cause, which said order is in words and figures as follows, to wit:

[14] C-418.

In the Matter of the Application of JIM HONG for a Writ of Habeas Corpus.

It is ordered that the petitioner be admitted to bail in the sum of Five Hundred Dollars pending the

hearing on the petition and writ herein, said bond to be approved by the Clerk (2-151).

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**Bail Bond.**

**BOND OF PETITIONER.**

KNOW ALL MEN BY THESE PRESENTS: That Jim Hong, as principal, and E. J. Bennitt and Julius Atwood, both of the city of Phoenix, as sureties, are held and firmly bound, jointly and severally by these presents, unto the United States of America in the sum of Five Hundred Dollars (\$500.00), which sum we and each of us jointly and severally promise and agree to pay to the said United States of America.

Signed this 27th day of February, 1913.

NOW, THEREFORE, the condition of this obligation is such that if the above-named principal, Jim Hong, is produced before the District Court of the United States for the District of Arizona on the 3d day of March, 1913, at the opening of court on said day, then and there to abide the orders of the said Court, then and in that event this obligation shall be void and of no force or effect; otherwise, to remain in full force and virtue.

JIM HONG, Principal.

[15] E. J. BENNITT,

J. W. ATWOOD,

Sureties.

State of Arizona,  
County of Maricopa,—ss.

E. J. Bennitt and J. W. Atwood, being duly sworn, says each for himself that he is one of the sureties

above named and that he is worth more than five hundred dollars over and above all his just debts and liabilities, exclusive of property exempt from execution and forced sale.

J. W. ATWOOD.

E. J. BENNITT.

Subscribed and sworn to before me this 27th day of Feby. 1913.

[Seal]

ALLAN B. JAYNES,

Clerk.

[Endorsements]: C-418. (2.) District Court of the United States for the District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. (Original.) Bond. Filed and Appvd. Feb. 27, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. Edward Kent, William M. Seabury, Fleming Building, Phoenix, Arizona.

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**Marshal's Return to Writ of Habeas Corpus.**

*In the United States District Court for the District of Arizona.*

[16] In the Matter of the Application of JIM HONG for a Writ of Habeas Corpus.

**Return to Writ.**

United States of America,  
District of Arizona,—ss.

The return of C. A. Overlock, United States Marshal for the District of Arizona, to the Writ of Habeas Corpus hereto annexed:

In obedience to the Writ of Habeas Corpus hereto annexed, I do hereby certify and return to the United States District Court for the District of Arizona, that, to the best of my knowledge, belief and understanding, neither at the time of the allowance of the said writ nor at any time since was the said Jim Hong, therein mentioned, by whatever name he may be called, in my custody, possession, or power, or by me restrained of his liberty; wherefore, and in my knowledge and belief and understanding, I cannot have his body before you, as by the said writ I am commanded.

In further return and answer to said Writ of Habeas Corpus, I respectfully submit that this Honorable Court deprived me of the custody of the person of said Jim Hong, if I had any such custody of him, the said Jim Hong, at the time the said annexed writ was served upon me, and upon the order of this Honorable Court, made at the time said hereto annexed writ was served upon me, the said Jim Hong, at that [17] time and long before it was by said hereto annexed writ commanded of me to produce to this Honorable Court the body of the said Jim Hong, was liberated and enlarged upon a bail bond of some nature to me unknown; wherefore, and in addition to the reasons hereinbefore mentioned, it is respectfully submitted to this Honorable Court that I cannot comply with said writ hereto annexed and cannot have the body of the said Jim Hong before you, as by the said Writ commanded.

C. A. OVERLOCK,

United States Marshal for the District of Arizona.

Subscribed and sworn to before me this 3d day of March, 1913.

[Seal]

ALLAN B. JAYNES,  
Clerk.

[Endorsements]: C-418. (3.) United States District Court for District of Arizona. In the Matter of Petition of Jim Hong for Writ of Habeas Corpus. Marshal's Return. Filed March 3, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. O. T. Richey, Asst. U. S. Attorney.

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*District Court of the United States, District of Arizona.*

UNITED STATES

against

JIM HONG.

**Traverse to Marshal's Return.**

[18] Now comes Jim Hong, the defendant above named, and the petitioner for the Writ of Habeas Corpus granted by this Court on February 27, 1913, and traverses the return of C. A. Overlock, Marshal of the United States for the District of Arizona and

I. Denies each and every allegation therein contained.

II. Your said petitioner and defendant above named further alleges that he is now on the 3d day of March, 1913, at the opening of court on that day produced before the Court in accordance with the terms of the bond made on February 27, 1913, after the granting of the writ, and that he is now in the custody of the said Marshal, and that he was in the

actual custody of said Marshal on February 27, 1913, at the time the said writ was applied for and granted.

Wherefore your petitioner, the defendant above named, prays to be discharged from custody in accordance with the prayer of his petition.

JIM HONG.

EDWARD KENT,

W. M. SEABURY,

Solicitors for Defendant.

United States of America,  
District of Arizona,—ss.

Jim Hong, being first duly sworn, says he has heard read the foregoing traverse to the return of the Marshal herein, and that the same is true of his own knowledge.

JIM HONG.

[19] Subscribed and sworn to before me this 3d day of March, A. D. 1913.

[Seal]

ALLAN B. JAYNES,

Clerk United States District Court.

By Francis D. Crable,

Deputy.

[Endorsements]: C-418. (4.) United States District Court, District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. Traverse to Return. Filed March 3d, at 10 A. M. Allan B. Jaynes, Clerk. By Francis D. Crable, Deputy.

**Amended Return of U. S. Marshal to Writ of Habeas  
Corpus.**

*In the United States District Court for the District  
of Arizona.*

In the Matter of the Application of JIM HONG for  
a Writ of Habeas Corpus.

The Amended Return of C. A. Overlock, United  
States Marshal for the District of Arizona, to the  
Writ of Habeas Corpus hereto annexed:

In obedience to the Writ of Habeas Corpus hereto  
annexed, I do hereby certify and return to the United  
States District Court for the District of Arizona,  
that, on the 27th day of February, A. D. 1913, so  
deponent is informed and [20] believes, Julius  
W. Atwood, being one of the bail for the petitioner  
in these proceedings, brought petitioner, Jim Hong,  
to the office of deponent in Phoenix, Arizona, and  
demanded of Bernhard Anderson, a deputy under  
deponent, that the said Anderson take into his cus-  
tody and detain the said Jim Hong; that thereupon  
the said deputy did take the said Jim Hong into his  
custody, and so keep the said Jim Hong, for a short  
period, to wit, less than thirty minutes, at the said  
request and demand of the said bail; that thereupon  
and during such custody there was served upon the  
said Anderson and directed to deponent a Writ of  
Habeas Corpus hereto annexed; that said writ com-  
manded deponent to have the body of Jim Hong be-  
fore the above-entitled court at the hour of 9:30  
o'clock A. M. of the 3d day of March, 1913; that



thereupon and immediately following the service of the said writ this Honorable Court ordered that the said Jim Hong be enlarged upon bail, and bail thereupon was immediately filed and deponent deprived of the custody so as aforesaid in him of the said Jim Hong, and so was continued to be so deprived of the custody of the said Jim Hong pending the full time in which deponent is by law granted to make his return to this said writ; that immediately before the opening of Court to which deponent is required to make return, the said Atwood being again the bail of this petitioner in these proceedings under an order of this Court, again brought the said Jim Hong and for the purpose of surrendering the said Jim Hong [21] to the deponent, and deponent for a short period did take the said Jim Hong into his custody at the request of his said bail and detain the said Jim Hong for a short period, and then, feeling such custody, upon advice of his counsel, was not sufficient and legal, attempted to redeliver the said Jim Hong to the said bail, and the said bail refused to retake the said Jim Hong, and deponent, being now before the Honorable Court, and having such custody as aforesaid, of the person of the said Jim Hong, does respectfully deliver the body of the said Jim Hong into this court in accordance with the directions of the said writ to be directed.

Dated at Phoenix, Arizona, this 3d day of March, A. D. 1913.

C. A. OVERLOCK,  
United States Marshal.

Subscribed and sworn to before me this 3d day of March, 1913.

[Seal]

ALLAN B. JAYNES,  
Clerk.

[Endorsements]: No. C-418. (5.) District Court of the United States for the District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. Amended Return to Writ of Habeas Corpus. Filed Mar. 3, 1913. Allan B. Jaynes, Clerk.

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**Demurrer to Amended Return [of U. S. Marshal to  
Writ of Habeas Corpus].**

District of Arizona.

UNITED STATES

against

JIM HONG.

The defendant above named being [22] the petitioner for the Writ of Habeas Corpus granted herein on February 27, 1913, hereby demurs to the amended return of the Marshal for this District upon the ground that said amended return fails to state facts sufficient to constitute a valid return or cause for the detention of said defendant.

Wherefore defendant prays that he be forthwith discharged from custody as prayed in his petition for said writ.

EDWARD KENT,  
W. M. SEABURY,  
Solicitors for Defendant.

[Endorsements]: B—418. (6.) United States District Court, District of Arizona. Demurrer to Amended Return. Filed Mar. 3, 1913, at 2 P. M. Allan B. Jaynes, Clerk. By Francis D. Crable, Deputy.

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*In the United States District Court for the District of Arizona.*

In the Matter of the Application of JIM HONG for a Writ of Habeas Corpus.

**Second Amended Return [of U. S. Marshal to Writ of Habeas Corpus].**

The Second Amended Return of C. A. Overlock, United States Marshal for the District of Arizona, to the Writ of Habeas Corpus in the foregoing entitled proceedings directed [23] to him:

The petitioner makes no sufficient statement of matters and facts as to entitle him to any other order or relief than an order remanding him to answer to said complaint in said petition referred to and upon which petitioner admits he was arrested to answer.

The petition shows, that the Commission issuing the warrant had jurisdiction of the subject matter of the complaint. He has jurisdiction to entertain any demurrer or objection the defendant, the said Jim Hong, the petitioner in this action, might make thereto, or to either of the said warrant or the said complaint; he had jurisdiction of the body and custody of the said defendant in the said action before the said commissioner; that, notwithstanding it is required by section 754 of the Revised Statutes of the United States, said petition fails to allege and

set forth all of the facts concerning the detention of defendant, if he was detained at all. If said petition upon its face shows to this Court the conditions alleged by this return to be, then this petitioner is entitled to no relief at all and should be remanded to answer to said complaint, there being no showing of any kind whatever that petitioner herein, the defendant in said complaint, the said Jim Hong, ever at any time made any effort to or before said Commissioner for any relief in his said petition in these proceedings sought; and, petitioner should not of right be entitled to [24] come into this court for relief he might have had had he made the same showing to the Court below that he is here endeavoring to make; and respondent alleges that these proceedings now before this Court is an attempt on the part of petitioner to force the United States to prosecute the complaint; that Jim Hong is a person of Chinese descent unlawfully in the United States, in this court in the first instance instead of in the Court of United States Commissioner C. W. Johnstone, the commissioner before whom the complaint hereinbefore mentioned was filed, and who, respondent alleges, has entire and full jurisdiction in the premises of passing upon all of the contentions the petitioner set forth in his petition herein; and respondent alleges, and contends that, of right, petitioner will be required to show that he has made due attempt, in the court having jurisdiction below of the matters complained of, to there obtain the relief here sought, before he will be permitted, under the circumstances in his petition herein shown, to

move this Court for relief; respondent denies the truth of all of the allegations, claims and matters made on the part of petitioner in the following named paragraphs of his said petition, to wit: Paragraphs First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eleventh, and all of that part of paragraph Eighth from the beginning thereof to and inclusive of the word "domicile" in the third line of page five of said petition, and deponent alleges that all of [25] matter in said paragraphs, and so denied as aforesaid, even if true, are incompetent, irrelevant and immaterial for any purpose whatever in the consideration by this Court of these proceedings, and that the only matter under consideration by this Court is, whether the said United States Commissioner possesses jurisdiction in the premises complained of in the aforementioned complaint, and whether the detention, if detention there was, of petitioner was proper, and that said matters so denied, even if true, are incompetent and immaterial for any purpose whatever in the disposition of these premises.

Respondent admits that the said Jim Hong was arrested on or about the 21st day of November, 1912, upon a warrant of arrest issued upon complaint of O. T. Richey, Assistant United States Attorney, as set out in the petition of the said Jim Hong; that the copy of said complaint and said warrant as set out in the petition of the said Jim Hong are in substance, if not in fact, true copies of the originals; alleges that upon the said warrant, as is evidenced by the return thereof thereon, the said Jim Hong was

taken before said Commissioner Johnstone, and thereupon and without ever having been committed, after said return, and after the said *deliver* of the said Jim Hong to the said Commissioner as in said warrant required, the said Jim Hong was enlarged upon bail, and was never at any time by the [26] said commissioner committed to the custody of respondent or to any of the deputies of respondent; alleges that the said Jim Hong, since his release upon said bail by the said Commissioner, has never been in the custody of or detained by any United States Officer except as hereinafter set forth, and was not in any such custody or so detained or restrained of his liberty at the time of the filing of the said petition as is set forth and alleged in the said petition, nor at any time since the filing of the said petition; admits that the complaint charges the petitioner Jim Hong with being a person of Chinese descent unlawfully within the United States.

Respondent denies that the said complaint or the said warrant are at all defective, or that either are at all defective, but alleges, on the contrary, that said complaint states a perfect cause of action and that the said warrant, and that each of them, the said complaint and the said warrant, are sufficient and fully inform the defendant with the offense with which he is charged, to wit, that he is a person of Chinese descent unlawfully within the United States.

Respondent denies that allegation of the petition contained in paragraph Tenth thereof, to wit, that the petitioner was then and there in the custody of

the United States Marshal, and denies that he was in the custody of any person other than his bail, viz.: Julius W. Atwood and E. J. Bennitt; denies that petitioner was held to await an order of [27] deportation to be made, but alleges that petitioner was under bond to appear before the said Commissioner Johnstone for trial to be had on the 3d day of March, 1913, such trial to be had for the purpose of determining whether the said Jim Hong was or was not, or is or is not, a person of Chinese descent, unlawfully within the United States, and respondent attaches hereto a copy of said bail bond and marks the same Exhibit "A," and makes the same a part hereof.

Respondent admits that pending the trial of the said Jim Hong upon the said complaint hereinbefore mentioned, his said certificate or residence was seized and held by agents of the Government of the United States, and that said certificate is now in the possession of such agents, and will be so held by such agents subject to the use of the said Jim Hong as evidence of his right to be and remain within the United States, and will be preserved for and be delivered to him in event it be shown that he be entitled to be and remain within the said United States, being pending the result of the said trial before the said Commissioner Johnstone; and respondent alleges such procedure is the practice, that it is lawful and proper, and the only course open to the Government by which it can protect itself against fraud in such cases; and alleges the only damage petitioner could suffer from such detention

is that he is prevented the use of his certificate to travel around the country pending his trial before the said commissioner; and alleges that petitioner's right to such certificate and to the use thereof [28] depends upon the determination of his right to be and remain within the said United States, and such right is but a privilege granted by the United States under its regulations and for the purpose of successfully protecting itself against constant fraud; respondent denies that the officer and agent of the Government had no right, power or authority of law to temporarily deprive petitioner of said certificate, and denies that such deprivation deprived petitioner of any right he may have had or now has in and to the equal protection of the laws of the United States, and denies that such deprivation violated petitioner's right to be exempt from unlawful searches and seizures, and denies that, being so deprived, petitioner has been subjected to unlawful seizure and search of his property in violation of the provisions of the Constitution, or any of the provisions thereof, of the United States, and denies that petitioner has been denied the equal protection of the law guaranteed to citizens of the United States and to others lawfully domiciled therein by the provisions of the said Constitution of the United States, and denies that, as alleged in the latter part of the twelfth paragraph of said petition, petitioner was then, or is now, restrained and deprived of his liberty without due process of law, in violation of the "due process" clause of the said Constitution of the United States, and denies that petitioner has or maintains such a



status as that he should not be put to the test required by the laws [29] of the United States and the Rules and Regulations thereunder promulgated, and a proper complaint having been filed, although it being not necessary or by law, rule or regulation required that a written complaint be filed, and the petitioner having been by competent legal authority ordered to show cause why he should not be deported he should be compelled to make the legal showing required. Respondent is informed, and upon such information so believes it to be true, and therefore states the facts to be, that on several occasions petitioner, through his several counsel, at and from the time of his arrest upon said complaint and warrant, petitioner has made requests for continuances and such requests as often granted for the trial under said complaint; that it is no fault of the United States that the trial of Jim Hong before the said Commissioner upon said complaint has not long ago been had; that these proceedings are instituted solely and for no other purpose than for the purpose of forcing the United States to try the right of this petitioner to be and remain within the United States, in this Court, in the first instance instead of before the said United States Commissioner before whom the said complaint against this petitioner was made; that on or about the 27th day of February, 1913, this petitioner, the defendant in the court below, and being then under bail bond as hereinbefore set forth, was taken, and he voluntarily accompanied one of his said bail, viz., the said Atwood, and for the purpose on the part of the said [30]

bail and the said defendant that he, said defendant, be surrendered, in accordance with the provisions governing such cases, to the proper authority, and that such taking into custody and such intention to surrender and to be so surrendered was not *bona fide*, but was for the sole and only purpose of being a means and a part of the scheme to have this Court try out in the first instance the right of this petitioner to be and remain within the United States and to take him away from the jurisdiction of the said Commissioner. Respondent alleges, that in order to properly surrender a person under a bond for appearance, it is provided by the laws of the United States how such shall be accomplished, to wit, section 1018 of the Revised Statutes of the United States, and such provision requires such surrender to be made to the marshal or his deputy jointly with the officer authorized to commit the person being surrendered, and that such officer shall, upon request of his bail, commit the person so surrendered to the custody of the marshal and endorse on the recognizance or a certified copy thereof the discharge and exoneretur of the bail, and the person so committed shall therefrom be held in custody until discharged by due course of law; and, alleges that such course was not pursued in the surrender of the said Jim Hong in the surrender aforesaid; alleges that until said course in the surrender of the said Jim Hong be pursued petitioner must legally be constructively in the custody of his bail from whose liability it was [31] attempted to surrender him; alleges that the said bail made an attempt to surrender the

said Jim Hong, but therein failed, and the said Jim Hong is now and at all times since the execution thereof has remained subject to the conditions of said bail; that the person to whom the said bail attempted to surrender the said Jim Hong, to wit, a deputy of respondent, believing it to be his duty and legal to accept and detain the said Jim Hong upon the demand of the said bail without other procedure, did at the instance of and for the said bail take charge of the said Jim Hong; alleges that if that detention, custody and restraint is what the said Jim Hong is petitioning to be relieved from, on the grounds that such detention and restraint was and is occasioned without due process of law, he fails to state any such facts as to entitle him to relief therefrom; alleges that said Jim Hong has at no time been duly surrendered under the bond required by and filed with the Commissioner aforesaid, and the bail in said bond are now responsible for the appearance of petitioner before the said Commissioner to answer to said complaint; alleges that the only time during which the said Jim Hong was in custody, detention and restraint under said complaint was during the time between his first having been taken into custody on the said warrant and his delivery to the custody of the commissioner thereon where such detention continued until his bond was filed as hereinbefore set out, [32] and that any custody by the said deputy and such as was attempted by said bail by means of the said attempted surrender was not such custody as to be a part of or authorized in any of the proceedings before the said Commissioner so as to relieve the

bail, and that such custody must have been for the bail by its agent, the deputy possessing no commitment or order of any competent authority in the premises in due course, and, therefore, necessarily acting solely in the capacity of agent of the bail.

Wherefore, and in obedience to the Writ of Habeas Corpus hereinbefore mentioned, I do hereby certify and return to the United States District Court for the District of Arizona, that on the 27th day of February, A. D. 1913, as I am informed and verily believe, as hereinbefore stated, and set forth, the said Atwood, being then and there one of the bail of petitioner in the said complaint proceedings brought the said Jim Hong, the petitioner in these proceedings, to the office of respondent in Phoenix, Arizona, and demanded of Bernhard Anderson, a deputy of respondent as aforesaid herein, that the said Anderson take into his custody and detain the said Jim Hong; that, thereupon, the said deputy did take the said Jim Hong into his custody and so keep him for a short period, to wit, less than thirty minutes, at the said request and demand of the said bail; that thereupon, and during such custody, there was [33] served upon the said Anderson and directed to respondent a Writ of Habeas Corpus, commanding me that I have the body of Jim Hong before the said Court, at the hour of 9:30 o'clock A. M. on the 3d day of March, 1913; that, thereupon, and immediately following the service of said writ as aforesaid, this Honorable Court ordered that the said Jim Hong be enlarged on bail, the bail was thereupon immediately filed and respondent thereby de-

prived of the custody so as aforesaid in him of the said Jim Hong, and so was continued to be so deprived of the custody of the said Jim Hong pending the full time in which respondent is by law, and was by said writ granted to make return to said writ; that immediately before the said hour of the opening of this court, and immediately before respondent was by said writ required to have the body of the said Jim Hong before this Court, the said Atwood, being again the bail of the said Jim Hong in these proceedings under the said order of this Court, again brought the said Jim Hong to respondent's said office for the purpose of again surrendering him to respondent, and respondent for a short period of time did take the said Jim Hong into his custody at the request of his said bail and detain him for a short period, and then, feeling such custody, upon the advice of his counsel, was not sufficient and legal, respondent attempted to redeliver the said Jim Hong to his said bail, but the said bail refused to retake the said [34] Jim Hong, and respondent, being now before the Honorable Court, and having such custody as aforesaid of the person of the said Jim Hong, does respectfully deliver the body of the said Jim Hong into this court in accordance with the directions of the said writ to me directed.

Dated at Phoenix, Arizona, this 3d day of March,  
A. D. 1913.

C. A. OVERLOCK,  
United States Marshal.

[Endorsements]: C-418. (7.) In District Court of the United States, District of Arizona. In Matter of the Application of Jim Hong for a Writ of Habeas Corpus. Second Amended Return to Writ. O. T. Richey, Asst. U. S. Atty. Filed Mar. 3, 1913. Allan B. Jaynes, Clerk.

[**Defendant's Exhibit No. 1—Certificate of Collector of Internal Revenue of Residence of Jim Hong, etc.**]

[35] No. 137804.

Original.

UNITED STATES OF AMERICA.

CERTIFICATE OF RESIDENCE.

Issued to Chinese person other than laborer under the Provisions of the Act of May 5, 1892, as amended by the Act approved November 3, 1893.

THIS IS TO CERTIFY That Jim Hong, a Chinese person, other than laborer, now residing at Alpine, Texas, has made application No. 865 to me for a Certificate of Residence, under the provisions of the Act of Congress, approved May 5, 1892, as amended by the Act approved November 3, 1893, and I certify that it appears from the affidavit of witness submitted with such application that said Jim Hong was within the limits of the United States at the time of the passage of said Act and was then residing at Alpine, Texas, and that he was at the time lawfully entitled to remain in the United States, and that the following is a descriptive list of said Chinese person, other than laborer, viz.: Name, Jim Hong. Age, 28 years. Local residence, Alpine, Texas. Occupation,

Restaurant-keeper. Height, 5 ft. 7½ in. Color of eyes, dark brown. Complexion, swarthy. Physical marks or peculiarities for identification, scar on the back of right forearm; scar on knuckle of left hand (under finger); several scars over left ear.

And as a further means of identification, I have affixed hereto a photographic likeness of said Jim Hong.

[36] Given under my hand and seal this third day of May, 1894, at Austin, Texas.

J. EDWARD KAUFFMAN,

Collector of Internal Revenue, 3 District of Texas.

(Photograph)

Jim Hong.

137804.

[Endorsements]: C-418. (8.) Defendant's Exhibit 1. Filed Mar. 3, 1913. Allan B. Jaynes, Clerk.

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**[Minutes of Court—March 3, 1913.]**

BE IT REMEMBERED that heretofore and upon, to wit, the 3d day of March, 1913, the same being one of the regular juridical days of the October, 1912, Term of said Court, the following order, *inter alia*, was had and entered of record in said court, in said cause, which said order is in words and figures as follows, to wit:

C-418.

In the Matter of the Application of JIM HONG for a Writ of Habeas Corpus.

This matter came on this day regularly to be heard upon the Writ of Habeas Corpus issued herein and

the return of the United States Marshal thereon, Wm. M. Seabury, Esquire, and Edward Kent, Esquire, appearing as counsel for the petitioner and O. T. Richey, Esquire, Assistant United States Attorney appearing on the part of the United States. Whereupon the Assistant United States Attorney moved for leave to intervene [37] on behalf of the United States, which motion was by the Court denied, to which ruling of the Court the Assistant United States Attorney for the United States excepted. And thereupon said matter came on to be heard upon the Marshal's return to the writ and the petitioner's traverse to said return, and the petitioner, to maintain upon his part the issues herein, called as a witness Wm. M. Seabury, who was duly sworn, examined and cross-examined and also introduced certain documentary evidence, and the question of jurisdiction being fully submitted to the Court, and the Court having considered the same and being fully advised in the premises, finds that the Court has jurisdiction of the body of the petitioner herein. Whereupon, the United States, through the Assistant United States Attorney, excepts to said ruling. And now the United States Marshal requests leave to file an amended return, which leave is by the Court granted. The petitioner thereupon, through his counsel, moved the Court for judgment on the pleadings. Argument of the respective counsel was had, and the United States Marshal thereupon moved the Court for leave to file a second amended return, which leave was by the Court granted. Counsel for the petitioner then asked that



the demurrer of the petitioner to the first amended return of the Marshal stand as to the second amended return of the Marshal, which leave is by the Court granted. Counsel for the petitioner then renewed its motion for judgment on the pleadings. Argument of the respective counsel was had, and the case being fully [38] submitted to the Court, and the Court being fully advised in the premises, does grant said motion and orders that the petitioner be discharged from custody in accordance with the judgment to be signed and filed herein. It is further ordered that the Clerk retain the certificate of residence of the petitioner for thirty days, when it is to be delivered to the petitioner in the event no appeal is taken in this case. The United States, through the Assistant United States Attorney, excepts to the ruling of the Court in granting the motion for judgment on the pleadings and discharging the petitioner, and gives notice of appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit. (2-164.)

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**[Order Discharging Petitioner from Custody.]**

*In the District Court of the United States, in and for  
the District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JIM HONG.

Defendant.

## FINAL ORDER.

Upon the petition of Jim Hong, the defendant above named, for a Writ of Habeas Corpus, duly verified February 27th, 1913, and the exhibits thereto attached, and upon the return of C. A. Overlock, Marshal of the United States, filed March 3d, 1913, and upon the amended return thereto, [39] and the demurrer to said amended return, and upon the second amended return of said Marshal thereto and the demurrer to said second amended return, and the said Jim Hong, through his counsel, having moved the Court for judgment upon the pleadings, discharging the said Jim Hong from custody, and the matter having been heard in open court, and full argument having been made by counsel for the Government in opposition to said motion for judgment on the pleadings, and by counsel for the said Jim Hong in support of said motion, and the Court being fully advised in the premises and due deliberation having been had; and it appearing to the Court's satisfaction that the said Jim Hong is now and at all times since the issuance to said Jim Hong of a certificate numbered 137,804, heretofore duly issued by the officers of the Government of the United States to the said Jim Hong, has been a person lawfully within the United States, and that the said Jim Hong is the person named therein, establishing the right of the said Jim Hong under said certificate lawfully to be and remain within the United States;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DETERMINED that the said Jim Hong is now lawfully within the United States, un-

der and by virtue of the said certificate 137,804; and that he is now unlawfully restrained of his liberty.

AND IT IS FURTHER ORDERED, ADJUDGED AND DETERMINED that the said Jim Hong be and he hereby is discharged from custody.

[40] Done in open court, this 3d day of March, 1913.

RICHARD E. SLOAN,  
United States District Judge.

[Endorsements]: No. C-418. (9.) District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. Jim Hong, Defendant. (Original.) Final Order. Filed Mar. 3, 1913. Allan B. Jaynes, Clerk. Edward Kent. William M. Seabury, Fleming Building, Phoenix, Arizona.

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**[Petition for Appeal.]**

[41] *In the United States District Court for the District of Arizona.*

In the Matter of the Application of JIM HONG for a Writ of Habeas Corpus.

To the Honorable WILLIAM W. MORROW, Judge of the United States Circuit Court of Appeals for the Ninth Circuit, Assigned to and Presiding Within the District of Arizona.

C. A. Overlock, the Marshal of the United States for the District of Arizona, being the respondent in the foregoing entitled cause, feeling and considering himself and the Government of the United States of America aggrieved by the rulings and the final order

and decree made and entered in said cause under date of March 3d, A. D. 1913, wherein and whereby, among other things, it was ordered, adjudged and decreed that the said Jim Hong be discharged from custody, and does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from said order and decree, and from said mentioned rulings, and particularly from that part thereof which directs that said Jim Hong be discharged, for the reasons set forth in the assignment of errors which is filed herewith; and respondent prays that this his petition for his said appeal may be allowed and that a transcript of the record, proceedings and papers upon which said order was made, duly authenticated, be sent to the said United States Circuit Court of Appeals for the Ninth Circuit.

Dated May 15th, 1913.

J. E. MORRISON,

United States Attorney for the District of Arizona.

[42] O. T. RICHEY,

Assistant United States Attorney for the District of Arizona,

Attorneys for the Respondent.

**Order [Allowing Appeal].**

The foregoing petition on appeal is granted and the claim of appeal therein is allowed.

Done this 19th day of May, A. D. 1913.

WM. W. MORROW,

Judge of the Circuit Court of Appeals for the United States, in and for the Ninth District, Assigned to and Presiding Within the District of Arizona.

[Endorsements]: C-418. In the United States District Court, District of Arizona. In the Matter

of the Application of Jim Hong for a Writ of Habeas Corpus. Petition on Appeal and Order. Filed May 26, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. J. E. Morrison, United States Attorney, O. T. Richey, Assistant United States Attorney, Attorneys for Respondent.

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*In the United States District Court for the District of Arizona.*

In the Matter of Application of JIM HONG for a Writ of Habeas Corpus.

**Assignment of Errors.**

Assignment 1 of Errors.

The ruling of the Court denying the Government of the United States, through its proper United States Attorney, the privilege of intervening, and refusing to permit the United States to intervene in its own behalf, and in addition to any [43] return the United States Marshal for the District of Arizona might make.

Assignment 2 of Errors.

The ruling of the Court that it had jurisdiction of the body of petitioner.

Assignment 3 of Errors.

The ruling of the Court that the petitioner should have judgment on the pleadings, and the granting of judgment and decree on the pleadings.

Assignment 4 of Errors.

The discharging of the petitioner without the introduction of the evidence offered by respondent, to wit, the testimony of two competent, material and

reliable witnesses that petitioner had been in Mexico for several years since the issuance to petitioner of the Certificate of Residence.

Assignment 5 of Errors.

The finding and determining by the Court without a trial thereof that Jim Hong, petitioner, is lawfully within the United States, the court on *habeas corpus* proceedings possessing no jurisdiction or authority whatever to make any such finding or decree, nor to try such issue on *habeas corpus* proceedings.

Assignment 6 of Errors.

The finding of the Court that the petitioner was unlawfully restrained of his liberty.

Assignment 7 of Errors.

The Final Order and Decree is contrary to law and to the pleadings and the facts.

Assignment 8 of Errors.

The Court exceeded its jurisdiction in making any finding whatever other than: whether it obtained and had jurisdiction [44] of the subject matter; whether it had jurisdiction of the body of petitioner; whether petitioner was unlawfully restrained of his liberty.

Assignment 9 of Errors.

The ruling of the Court that Section 1018 of the R. S. of U. S. does not obtain in the surrender of a

defendant on bail in Chinese Exclusion actions before U. S. Commissioners.

J. E. MORRISON,

United States Attorney for the District of Arizona,

O. T. RICHEY,

Assistant United States Attorney for the District of Arizona,

Attorneys for Respondent.

[Endorsement]: C-418. In the United States District Court, District of Arizona. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. Assignments of Error. Filed May 26, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. J. E. Morrison, U. S. Attorney, O. T. Richey, Asst. U. S. Attorney, Attorneys for Respondent.

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[**Praeipie for Transcript of Record.**]

*In the United States District Court for the District of Arizona.*

In the Matter of Application of JIM HONG for a Writ of Habeas Corpus.

PRAECIPE FOR THE RECORD ON APPEAL.

To Allan B. Jaynes, Esq., Clerk of United States District [45] Court for the District of Arizona:

You will please, in accordance with the Order and Citation of the above-entitled Court, include in the transcript on appeal the following matter, viz., Petition for Writ of Habeas Corpus, Writ of Habeas Corpus, Order Admitting Petitioner to Bail, Bond of Petitioner, Marshal's Return, Amended Return

and Second Amended Return, Traverses to Returns, Demurrers to Returns, exhibits, minute entries of the proceedings, Final Order, Petition on Appeal, Order Allowing Appeal, and all other matters and filing appertaining to the foregoing entitled action and the appeal therein.

J. E. MORRISON,

United States Attorney for the District of Arizona,  
and

O. T. RICHEY,

Assistant United States Attorney for the District of  
Arizona,

Attorneys for Respondent.

[Endorsement]: C-418. United States District Court, District of Arizona. United States vs. Jim Hong. Prae. on Appeal. Filed May 29, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy.

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**[Order Directing Clerk to Prepare Certified  
Transcript of Record.]**

[46] *In the United States District Court for the  
District of Arizona.*

No. C-418.

In the Matter of the Application of JIM HONG for  
a Writ of Habeas Corpus.

Upon motion of O. T. Richey, Esquire, Assistant United States Attorney for Arizona, and it appearing to the Court that the Attorney General has directed that an appeal be taken in this case on behalf of the United States, it is by the Court ordered that the Clerk prepare and certify a transcript of the



record in this case at the expense of the United States.

Dated this 31st day of May, 1913.

WILLIAM W. MORROW,

Judge U. S. Circuit Court of Appeals, Presiding as  
Judge of the U. S. District Court for the District  
of Arizona.

[Endorsements]: United States District Court,  
District of Arizona. In the Matter of the Applica-  
tion of Jim Hong for a Writ of Habeas Corpus.  
Filed June 4th, 1913. Allan B. Jaynes, Clerk. By  
Frank E. McCrary, Deputy.

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**[Certificate of Clerk U. S. District Court to  
Transcript of Record.]**

[47] United States of America,  
District of Arizona,—ss.

I, Allan B. Jaynes, Clerk of the United States Dis-  
trict Court for the District of Arizona, do hereby  
certify that the foregoing pages, 1 to 46, constitute  
and are a true, complete, and correct copy of the rec-  
ord pleadings and proceedings had In the Matter of  
the Application of Jim Hong for a Writ of Habeas  
Corpus, No. C-418, as the same remain on file and  
of record in said District Court, and I also annex and  
transmit the original citation in said action.

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the seal of said District  
Court, at the city of Phoenix, in said District of  
Arizona, this 9th day of June, A. D. 1913, and of the

Independence of the United States of America the one hundred and thirty-seventh.

[Seal]

ALLAN B. JAYNES,  
Clerk United States District Court for the District  
of Arizona.

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[Endorsed]: No. 2278. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. Jim Hong, Appellee. In the Matter of the Application of Jim Hong for a Writ of Habeas Corpus. Transcript of Record. Upon Appeal from the United States District Court for the District of Arizona.

Filed June 14, 1913.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.